

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2400 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SAMIR C. SHAH,

Versus

BIRLA VISHWAKARMA MAHAVIDYLAYAENGINEERING COLLEGE,  
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Appearance:

MR MR. K.S. NANAVATI, Advocate, for Petitioner.

MR TRUSHAR MEHTA, Advocate, for the respondents.

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 16/04/96

ORAL JUDGEMENT

Rule. Mr. Trushar Mehta, learned Advocate, waives service of notice of rule for respondent Gujarat Electricity Board.

2. The challenge in the present Special Civil Application is the supplementary bill of Rs.13,36,78,584-50 ps. which is alleged to be theft of

electricity committed by them. It is contended by the petitioner that allegation of electricity is baseless and the supplementary and technical report submitted by the respondent Board suffers from fundamental illegality and inaccuracy. On the other hand Mr. Trushar Mehta, learned Advocate for the respondent Board submits that surprise checking was carried by the team of Sr. level Officers of the Board in presence of many responsible officers of the petitioner Company. From the surprise checking theft of electricity to the huge extent was detected.

3. As held by several decisions of this Court, a petition under Article 226 of the Constitution of India is not an appropriate remedy to determine the disputed question of facts involving technical consideration. Moreover, in view of the alternative remedy provided under the Conditions for approaching the Appellate Committee of the Respondent Board for ventilating the grievances, under Condition No.34 of the Conditions and Misc. Charges for supply of electrical energy. Thus, the petitioner is required to be relegated to the said remedy. In view of Condition No.34 there appears to be usual practice to pay 30% amount of the value of energy. However, keeping in view the peculiar facts of the case and more particularly the huge amount of bill, ends of justice would meet if the petitioner is directed to deposit 20% amount of the bill at annexure 'B' within a period of two months. Thus, the following order is made:-

O R D E R.

1. The petitioner is relegated to the remedy of approaching the Appellate Committee of the Respondent G.E.Board for ventilating the grievances. The petitioner shall present its representation or appeal within a period of one month.
2. The petitioner shall deposit 20% of the amount of bill annexure 'B' within a period of two months.
3. The appeal shall be heard only after the aforesaid amount is deposited and shall be disposed of within a period of two months from the date of deposit.
4. If the petitioner does not deposit the aforesaid amount within the stipulated

period, it will be open for the respondent G.E. Board, to disconnect the connection.

Rule is made absolute to the aforesaid extent.  
There shall be no order as to costs.

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